

News digest

Key changes in the telecommunications, media and technology industry in June 2022-February 2023

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Dear Ladies and Gentlemen,

We are pleased to present you with a current digest of the most significant bills, regulatory changes, and measures in matters concerning TMT industry for the period from June 2022 to February 2023.

Media content and advertising

Prohibition of LGBT propaganda

In December 2022, the federal laws¹ introducing a general prohibition on LGBT propaganda were signed and came into force. The new regulation also establishes a number of new restrictions with respect to the sale of media content and goods in Russia. Now information promoting:

- Non-traditional sexual relationships and/or preferences
- Pedophilia
- Gender reassignment

is prohibited for distribution in Russia (hereinafter referred to as "**LGBT propaganda**")

Administrative liability has been imposed for LGBT propaganda. The fines for officials are up to 800,000 RUB (approx. 12 626 USD, 11 860 EUR), for companies - up to 4 million RUB (approx. 63 132 USD, 59 304 EUR) or the administrative suspension of business activities for up to 90 days.

The new laws also establish a number of additional restrictions on the sale of media content and merchandise in Russia. Please see our newsletter with an overview of the key changes of the laws and our recommendations for the moderation of media content in Russia [here](#).

Rule change for the registration of domain names in the .RU and .РФ zones

On 12 December 2022 new rules for the registration of domain names registered in the .RU and .РФ zones entered into force.

The new rules stipulate that the delegation of a domain name registered in the .RU and .РФ zones may be taken down by its domain name registrar at the request of the Federal Service for Supervision of Communications, Information Technology and Mass Media ("**Roskomnadzor**"):

- If such a domain name is registered on third parties without their consent or
- If an Internet resource with this domain name contains information prohibited for dissemination in Russia

Please note that the procedure of taking down a domain name means the Internet resource will not work in Russia or in other countries.

The new grounds for taking down a domain name do not apply to domains registered in other domain zones, such as .COM.

Judicial restriction of access to messengers and social networks

The judicial restriction of access to messengers and social networks has been introduced in the Russian Code of Administrative Court Procedure².

In particular, the Moscow City Court is now authorized to consider administrative cases on the restriction of access to information systems or software if:

¹ Federal Law dated [5 December 2022 No. 478-FZ](#), Federal Law dated [5 December 2022 No. 479-FZ](#).

² Federal Law dated [5 December 2022 N 477-FZ](#).

- They are designed and/or used to receive, transmit, deliver/or process users' electronic messages
- Their functioning is provided by an organizer of information dissemination on the Internet³

As a general rule, a state official or a state authority may file an administrative lawsuit on the restriction of access to information systems or software if it contains/disseminates prohibited information.

New rules for online advertising

Amendments to the Federal Law "On Advertising" came into force on 1 September 2022. Now online advertisement is subject to mandatory labelling and must include the mark "advertisement" and an indication of the advertiser. Online advertising must also be registered within the Unified Registry of Internet Advertising (ERIR), which complicates the procedure for advertising campaigns on the Internet. The changes also aim to ensure the transparency of advertising expenses for the tax authorities.

Please see our newsletter with an overview of the key changes that companies must consider when distributing online advertising from 1 September 2022 [here](#).

New fines for owners of information resources and advertisement distributors

A [law](#) that introduces new administrative offences for owners of information resources and advertisement distributors has come into force.

Owners of information resources now may be subjected to administrative liability for:

- The failure to install software to calculate the size of the audience and/or the failure to provide information about the size of the audience to the organization to study the size of the Internet audience
- The failure to comply with the procedure for providing information about the organization's audience size by researching the size of the Internet audience

Advertising distributors and operators of advertising systems may be subjected to administrative liability for:

- The failure to provide or inadequate provision to the operator of social advertising (hereinafter referred to as "**OSR**") of information about the distribution of advertising on resources belonging to them
- The failure to conclude a free contract with the OSR for the distribution of social advertising on their own resources
- The failure to notify the OSR about providing the advertising system operator with the opportunity to distribute advertisement on the resource owned by the advertiser based on a contract

The fine for companies for the abovementioned violations may be up to 500,000 RUB (approx. 6 687 USD or 6 252 EUR), or in the case of repeat violations – up to 1 million RUB (approx. 13 375 USD or 12 504 EUR).

Personal data

Major reform of data protection legislation

New laws significantly amending the Federal Law "On Personal Data" ("**Personal Data Law**") were passed by the Russian parliament and signed by the Russian president in July 2022. The new changes affect the scope of the Personal Data Law's application and introduce new rules for the cross-border transfer of personal data, data breach notifications, and additional guarantees for data subjects, among other things. You can read more about the changes in our newsletter [here](#).

Rules for prohibiting or restricting cross-border transfers by Roskomnadzor

The new rules for the cross-border transfer of personal data will take effect on 1 March 2023. If you plan to transfer personal data abroad after 1 March 2023, you will have to submit a respective notification to the Russian DPA ("**Roskomnadzor**").

Roskomnadzor has adopted rules for the prohibition or restriction of cross-border data transfers [upon receipt of a request from the authorized agency](#) and [upon review of a data controller's notification](#).

Based on the results of the review of the notification, cross-border data transfers may be prohibited in the following cases:

³ An online platform may be recognized as an organizer of information dissemination on the Internet if it allows its users to exchange voice or text messages.

- The foreign data recipient does not take measures to protect personal data and does not specify the conditions for the termination of personal data processing
- The activities of the foreign data are prohibited in the Russian Federation based on a court decision
- The foreign data is included in the list of "undesirable organizations" in the Russian Federation
- Cross-border data transfer and further processing of the transferred personal data is inconsistent with the purpose of personal data collection
- There is no legal basis for the transfer of personal data

At the same time, cross-border data transfers may be limited in the following cases:

- The content and scope of personal data planned for the cross-border data transfer is inconsistent with the purpose of the cross-border data transfer
- The categories of personal data subjects whose personal data is planned for cross-border transfer are inconsistent with the purpose of the cross-border data transfer

The new rules do not provide similar legal grounds for a prohibition or restriction when Roskomnadzor receives a request from an authorized body. However, a data controller may eliminate the reasons for prohibiting or restricting the cross-border data transfer.

Roskomnadzor's decision based on the results of the review of the notification may be appealed by a data controller within a court or as part of an administrative procedure.

Moratorium on scheduled inspections of Roskomnadzor extended

On 1 October 2022, the Russian government approved an extension for a limited moratorium on scheduled inspections in 2023. Until the end of 2023, scheduled inspections by state bodies are only allowed with respect to monitored subjects that are classified as high-risk. Unscheduled inspections may be carried out in the event of a data breach occurred at a data controller. In other cases, companies will be exempted from scheduled inspections.

At the same time, Roskomnadzor may still make a preventive visit regardless of the degree of risk of the monitored subject.

Updated list of countries with adequate personal data protection

Roskomnadzor updated [the list of countries](#) with adequate personal data protection for the purposes of cross-border data transfers. The new list will come into force on 1 March 2023.

Now the list includes both the list of countries that are parties to Convention 108 and the list of countries considered as adequate that are not parties to Convention 108.

Previously, the list of countries that are not parties to Convention 108 consisted of 29 jurisdictions. Now it has been expanded by the regulator to 34 jurisdictions. China, India, Thailand, Cote d'Ivoire and the Kyrgyz Republic are recognized as "adequate countries" for the purposes of the cross-border transfer of personal data.

Requirements for the destruction of personal data

[New requirements](#) on the confirmation of data destruction approved by Roskomnadzor will come into effect on 1 March 2023.

The destruction of personal data, depending on the method used to process such personal data, will be confirmed by the following documents:

- In the event of the non-automated processing of personal data – an act on the destruction of personal data
- In the event of the automated processing of personal data/"mixed" processing of personal data – an act on the destruction of personal data and an extract from the logbook of events in the information system of personal data.

New forms of notifications on personal data processing

Roskomnadzor has adopted [new notification forms](#):

- On the intention to process personal data
- On changes in a previously submitted notification on the intention to process personal data
- On the termination of personal data processing.

Approved requirements for the assessment of harm that may be caused to personal data subjects

Data controllers must perform an assessment of the harm that may be caused to personal data subjects in the event of a violation of personal data legislation.

[The new requirements](#) defined by Roskomnadzor for such an assessment will come into force on 1 March 2023.

The harm assessment is carried out by a DPO or a special commission appointed by a data controller. The results of the harm assessment must be formalized by a harm assessment act.

Adopted procedure for interaction of data controllers with GosSOPKA

From 1 March 2023, [the procedure for interaction of data controllers](#) with GosSOPKA will come into force,

including the procedure for informing the Federal Security Service of Russia of computer incidents involving the unlawful transfer (provision, distribution, access) of personal data.

Only critical information infrastructure (CII) subjects are required to notify through GosSOPKA on such incidents directly within 24 hours. Other data controllers must notify Roskomnadzor within 24 hours and 72 hours only in a general manner.

Data controllers can contact the National Computer Incident Coordination Centre for assistance in responding to incidents.

Telecommunications

Annual reports of telecommunications operators

Starting from 2023, communication operators must submit annual reports to Roskomnadzor, which must include information about the telecommunications network, the telecommunications equipment used within it, as well as the telecommunications services provided, by 1 March. The report is sent electronically through the personal account of the communication operator.

Telecom operators that received a license on the provision of telecommunications services before the law took effect must submit a report on their activities to Roskomnadzor by 1 March 2023 inclusive.

The failure to submit an annual report may constitute grounds for the revocation of the operator's license.

As of 1 December 2022, [the rules for the submission of a report on the activities of a communication operator](#) were also approved.

Public liability for telecommunications operators for violating the requirements for the installation of TSPU

In July 2022, a law was adopted establishing administrative and criminal responsibility for the violation of requirements on the passage of traffic through

technical means to counter threats to the stability, security and integrity of the Internet (TSPU).

The corresponding amendments to the Administrative Code and the Criminal Code came into force on 1 January 2023.

Administrative fines for officials will be up to 50 000 RUB (approx. 668 USD or 625 EUR), for individual entrepreneurs – up to 100 000 RUB (approx. 1 337 USD or 1 250 EUR) and for legal entities – up to 1 million RUB (approx. 13 375 USD or 12 504 EUR).

For a repeat violation, fines for officials will be up to 200 000 RUB (approx. 2 675 USD or 2 500 EUR), for individual entrepreneurs – up to 500 000 RUB (approx. 6 687 USD or 6 252) and for legal entities – up to 5 million RUB (approx. 66 875 USD or 62 520 EUR).

Officials of telecom operators and individual entrepreneurs who have previously been subjected to administrative responsibility for a repeat violation may be prosecuted for systematic violations of the requirements for traffic through the TSPU and face up to 3 years in prison.

Procedure for submitting information to the universal service reserve

Information for the universal service reserve may now be submitted [in any form](#), including via a personal account in the GosUslugi service.

TMT regulatory trends in 2023

Turnover fines for leaks of personal data

The Ministry of Digital Development, Communications and Mass Media has drafted a bill imposing liability in the form of turnover fines for data controllers for leaks of personal data.

The fine for the first violation is expected to be a fixed amount, while a repeat violation will entail turnover fines of up to 3% of the company's annual turnover.

The bill has not yet been submitted to the Russian parliament, but the law should be adopted by the summer of 2023 based on the president's latest instruction.

Draft law on compulsory software licensing

A draft law is currently being prepared that would provide for the possible compulsory licensing of the objects of copyright and related rights.

Per the bill, Russian individuals or legal entities will be able to obtain a license to use a respective object of copyright and related rights without the right holder's consent as part of court proceedings. Compulsory licensing will be allowed for products (e.g., software) whose copyright holders have left the Russian market and/or which are not available for purchase in Russia.

An analogue of the DMA

The Ministry of Digital Development, Communications and Mass Media plans to introduce to the Russian parliament a bill that will impose additional

obligations on the owners of mobile device platforms, similar to the obligations set forth in the DMA of the European Union.

In particular, it includes a proposal to legislate the ability for mobile device users to download mobile apps from third-party stores and to pay for mobile app purchases using alternative payment methods (i.e., not only through the platform owner's app store).

Increase in the state fee for a communication services license

The Russian parliament has passed in the first reading a bill which significantly increase the amount of the state duty for granting a communication services license.

The state duty may be increased up to 1 million RUB (approx. 13 375 USD or 12 504 EUR) from 1 January 2024. Currently, the state duty for obtaining a communication services license is 7,500 RUB (approx. 100 USD or 93 EUR).

Recent TMT projects of ALRUD

ALRUD Experts **advised VEON on the sale of VimpelCom** to Russian Top Management. More information about the project can be found at our website [here](#).

Note: Please be aware that all information provided in this letter was taken from open sources. Neither ALRUD Law Firm, nor the author of this letter, bear any liability for consequences of any decisions made in reliance upon this information.

If you have any questions, please do not hesitate to contact ALRUD Partner

Sincerely,
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